

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Matthew A. Bradley
James A. Williams <i>et al.</i>	)	
	)	Art Unit: 2187
Serial No.: 10/681,618	)	
	)	Confirmation No. 7286
Filed: October 8, 2003	)	
	)	
For: Access Controller for	)	
Storage Devices	)	
	)	
Date of Examiner's Answer:	)	Attorney Docket No.:
November 15, 2010	)	2003-091-01
	)	

January 14, 2011

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By: _____

Doreen Day

REPLY BRIEF under 37 CFR §41.41

Dear Sir:

This Reply Brief is timely provided within two months from the mailing date of the Examiner's Answer dated November 15, 2010.

Reply

In response to the Examiner's Answer, dated November 15, 2010, Appellant respectfully submits the following reply as permitted under 37 CFR §41.41(a)(1). The Examiner's Answer contained no new grounds of rejection and the present reply contains no new amendment, affidavit or other evidence. Thus a formal Brief is not required. The present reply supplements Appellant's Appeal Brief in view of the Examiner's Answer.

The following sections address the Examiner's Answer in order by topic as they appear in the Examiner's Answer starting on page 13 and section "(10) Response to Argument." Citations to page numbers from the Examiner's Answer will be referred to as "EA ___".

I. Whether claims 1-5, 8-12, 25-27, 29-34, and 38 are unpatentable under 35 U.S.C. 102(b) as being anticipated by Christenson et al (US 6,324,620).

Independent Claim 1

The examiner's primary argument is found on page 14 of the Examiner's Answer, 2nd paragraph. The examiner states:

Christenson teaches this in view from the high priority jobs, as access to HOT data - and the region that the HOT data occupies - is given first over access to COLD data - and the region that the COLD data occupies.

(EA 14, 2nd paragraph)

This argument is based on accessing HOT or COLD data and is not based on a "first predefined region" or "second predefined region" as claimed. In fact, no "predefined region" is shown by the examiner. Rather, the argument refers to "the region that the HOT data occupies" in the hope that there is some link between the

region and how data accesses are processed. No actual evidence has been presented by the examiner. To the contrary, Christenson clearly teaches that the processing is based on job priority and not by region (see col. 12, lines 15-32; and appellant's brief, page 11) and that HOT data and COLD data can be in any region at any time (col. 10, lines 64-65).

In particular, Christenson explicitly defines "HOT" or "COLD" data by the frequency of access to the data, and not by the region it is in (Christenson, col. 7, lines 11-19). The examiner did not rebut this fact. Furthermore, Christenson explicitly states that HOT data is at times stored in a COLD partition: "...HOT data which is found in the COLD partition..." (col. 10, lines 64-65). Therefore, HOT data is not defined as "HOT" by being in a predefined region since Christenson explicitly discloses that HOT data can be in any region at any time. The examiner did not rebut this fact. Therefore, Christenson fails to teach or suggest metering access or allowing unmetered access to a predefined region in a storage device as claimed. All claim elements have not been found.

Furthermore, the examiner's argument attempts to show that Christenson's process teaches the claim by restricting the teachings of Christenson to a limited scenario while ignoring the reference as a whole and ignoring the actual configuration of the process taught by Christenson (EA 14, 2nd paragraph, last sentence). In particular, the examiner only looks at processing high priority jobs that access HOT data first and then high priority jobs that access COLD data and ignores the actual configuration that also includes processing low priority jobs (EA 14, 2nd paragraph, last sentence). This is improper since a reference must be considered "as a whole" and "in its entirety" (MPEP 2141.02, sections I and VI).

First, when Christenson is considered in its entirety, it clearly teaches that high priority jobs that access COLD data are processed before low priority jobs that access HOT data (col. 12, lines 15-32). Thus the examiner's limited view fails to

establish a prima facie rejection since neither HOT data nor COLD data is metered or unmetered based on predefined regions. Christenson explicitly processes the requests based on job priority and not by regions (col. 12, lines 15-32).

Second, considering the fact that Christenson teaches that HOT data is defined as “HOT” based on its frequency of access (col. 10, lines 64-65) and not by region, and that HOT data can be in COLD regions (col. 10, lines 64-65) (e.g. thus can be anywhere in the storage device), the examiner’s limited view still fails to teach the claim elements. Christenson fails to teach or suggest “an access controller configured to control access requests to a storage device by metering access to data within a first predefined region within the storage device and by allowing unmetered access to data within a second predefined region within the storage device” as claimed. A prima facie rejection has not been established.

Christenson’s process is explained in col. 12, lines 15-32, which has been summarized on page 11 of Appellant’s appeal brief. Christenson fails to teach “an access controller configured to control access requests to a storage device by metering access to data within a first predefined region within the storage device and by allowing unmetered access to data within a second predefined region within the storage device” and recited in claim 1. Neither the “metering access” element nor the “allowing unmetered access” element has been found. Christenson fails to teach the claimed features that are based on a first predefined region in the storage device or a second predefined region. The rejection should be reversed.

“Priority” Argument

The “Priority” argument made by Appellant in the Appeal Brief on page 12 was not rebutted by the examiner.

“Additional Errors” Argument

The “Additional Errors” argument made by Appellant in the Appeal Brief on pages 12-13 was not rebutted by the examiner.

“Definition Error” Argument regarding “frequency of access”

The “Definition Error” argument made by Appellant in the Appeal Brief on pages 13-14 was not rebutted by the examiner. Christenson explicitly defines “HOT” or “COLD” data by the frequency of access to the data (Christenson, col. 7, lines 11-19). The examiner did not provide any evidence to the contrary.

“Christenson Col. 6, lines 45-67” Argument

This argument made by Appellant in the Appeal Brief on pages 15-16 was not rebutted by the examiner. Thus this section of Christenson fails to support the examiner’s rejection.

II. Whether claims 6-7 are unpatentable under 35 USC §103(a) as being anticipated over Christenson and in view of Cousins (US 6,671,772).

The examiner points to Christenson col. 13, lines 33-59 as teaching the claimed feature (EA page 15, middle). The examiner states that Christenson discusses an interface between the disk and programs. Christenson does discuss an “interface” but fails to discuss having predefined first and second regions “where the first region and the second are defined by one or more logical block addresses” as claimed. Thus the claimed element is not found. The rejection should be reversed.

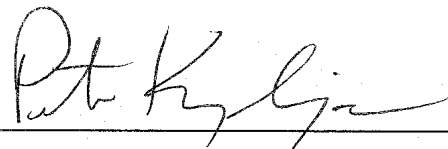
III. Whether claims 14-19, 28, and 35-37 are unpatentable under 35 USC §103(a) as being anticipated over Christenson and in view of Johnson (US 2002/0138670).

The examiner incorporated the comments submitted under claim 1 (EA 16, 1st paragraph). Appellant repeats the reasoning submitted above under claim 1 and also submitted in the Appeal Brief. A prima facie anticipation or obviousness rejection has not been established. The rejection should be reversed.

Conclusion

Appellant respectfully maintains all previous arguments, which show the deficiencies in the rejections, along with the additional comments submitted herein. Accordingly, Appellant respectfully requests that the Board of Appeals overturn all rejections and allow all pending claims.

Respectfully submitted,



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